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No.: **ICC-01/05-01/13**

Date: **2 May 2017**

THE APPEALS CHAMBER

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Geoffrey A. Henderson
Judge Piotr Hofmański

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF

***THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIMÉ KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDÈLE BABALA
WANDU AND NARCISSE ARIDO***

Public

**Prosecution's request in relation to "Registry Transmission of a Document
received from Mr. Aimé Kilolo Musamba"**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Victims Participation and Reparations Section **Other**

Submission

1. The Prosecution files this request in relation to the Registry's Transmission¹ of a letter from Mr. Aimé Kilolo Musamba which concerns the Sentencing Decision² and contains "personal financial information."³ Kilolo's letter was filed as a confidential and *ex parte* annex to the Transmission. The Prosecution seeks access to Kilolo's letter insofar as it contains information relevant to the Prosecution's sentencing appeal in this case.

2. In the Sentencing Decision, Kilolo received a sentence of two years and six months of imprisonment.⁴ The operation of the term of imprisonment not served⁵ was suspended for a period of three years so long as Kilolo pays a fine of 30,000 Euros and unless he commits another offence anywhere that is punishable with imprisonment.⁶ Kilolo has not appealed the Sentencing Decision. The Prosecution filed its notice of appeal against the Sentencing Decision on 24 April 2017.⁷

3. To the extent that the "personal financial information" in Kilolo's letter concerns his ability to pay the fine imposed on him, such information will be relevant to the Prosecution's sentencing appeal concerning Kilolo's adequate sentence. The Prosecution therefore seeks access to those parts of Kilolo's letter that relate to his ability to pay his fine so that it may present a full and informed sentencing appeal.⁸ Considering that the Prosecution's appeal brief is due on June

¹ ICC-01/05-01/13-2135 A ("Transmission").

² ICC-01/05-01/13-2123-Corr ("Sentencing Decision").

³ Transmission, paras. 1-2.

⁴ Sentencing Decision, para. 195.

⁵ Kilolo was entitled to have deducted the time he previously spent in detention in accordance with an order of the Court, namely since his arrest on 23 November 2013 until his release on 22 October 2014. *See* Sentencing Decision, para. 196.

⁶ Sentencing Decision, para. 197.

⁷ ICC-01/05-01/13-2146 A9. The Prosecution understands that, pursuant to article 81(4), the execution of the Sentencing Decision (including the payment of the fine) has been suspended for the duration of the appeal proceedings.

⁸ *See* ICC-02/11-01/15-208 OA6 ("Gbagbo Ninth Review AD"), paras. 84-88 (where the Appeals Chamber recognised that in order to fully respond to Mr Gbagbo's appeal, the Prosecution and the victims were entitled to information that Mr Gbagbo had redacted from his document in support of his appeal).

21st, the Prosecution respectfully requests the Appeals Chamber to rule on this request in an expedited fashion.



Fatou Bensouda, Prosecutor

Dated this 2nd day of May 2017⁹

At The Hague, The Netherlands

⁹ This submission complies with regulation 36 of the Regulations of the Court, as amended on 6 December 2016: ICC-01/11-01/11-565 OA6 (“*Al Senussi AD*”), para. 32.